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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board held a General meeting on March 9, 2004, in Hearing Room #1, at the offices of the New Motor Vehicle Board ("Board").

2. **ROLL CALL**

Glenn E. Stevens, President of the Board, called the General meeting to order at 9:10 a.m.

Present:	Robert V. Branzuela	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	David C. Lizárraga	Howard Weinberg
	Haig Papaian	General Counsel
	Andy Robles	Robin Parker
	Sushil K. Sharma	Senior Staff Counsel
	Alan J. Skobin	
	Glenn E. Stevens	
	David W. Wilson (arrived 9:20 a.m.)	

3. **APPROVAL OF THE MINUTES FROM THE NOVEMBER 7, 2003, GENERAL MEETING, AND DECEMBER 11, 2003, SPECIAL MEETING**

Mr. Flesh moved to adopt the November 7, 2003, General Board meeting minutes. Mr. Skobin seconded the motion. The motion carried unanimously. (Due to a typographical error in the President's Agenda, the Board meeting transcript reflected that the September 18, 2003, General meeting minutes were provided to the members. In actuality, the November 7, 2003, General meeting minutes were provided to the members, considered, and adopted.)

Mr. Flesh moved to adopt the December 11, 2003, Special Board meeting minutes. Mr. Lizárraga seconded the motion. The motion carried unanimously.

4. **PRESENTATION OF RESOLUTION TO ANGELO QUARANTA, FORMER PUBLIC MEMBER**

At the December 11, 2003, Special meeting, the members unanimously moved to

present Angelo Quaranta with a Resolution for his service as a Public Board member. Mr. Stevens presented the Resolution to Mr. Quaranta on behalf of the members and staff.

5. **CONSIDERATION OF PROPOSED STIPULATED DECISION AND ORDER**

ABC HJ INC., dba BOSCH SUZUKI OF CORONA v. AMERICAN SUZUKI
MOTOR CORPORATION
Protest No. PR-1867-03

Consideration of Proposed Stipulated Decision and Order, by the Public Members of the Board.

The Public members were provided with an analysis and Proposed Stipulated Decision and Order. Pursuant to Vehicle Code section 3050.7, the members have 10 days after receipt to object to the Proposed Stipulated Decision and Order. If there are no objections then the Proposed Stipulated Decision and Order is deemed adopted by the Board. The parties requested that this matter be agendized in an effort to avoid delay. Mr. Flesh moved to adopt the Stipulated Decision and Order. Mr. Sharma seconded the motion. The motion carried unanimously.

6. **ANNUAL REVIEW OF THE BOARD'S MISSION AND VISION STATEMENTS - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Tom Novi concerning the annual review of the Board's mission and vision statements. Mr. Novi indicated that the mission and vision statements are effective guides for the staff. Mr. Skobin requested that the Consumer Mediation Program be added to the statements. Mr. Novi indicated that the revised statements would be agendized for the April 22, 2004, General meeting.

15. **UPDATE CONCERNING THE IMPLEMENTATION STATUS OF PROGRAMMATIC AND REGULATORY CHANGES IN LIGHT OF RECENT LEGISLATION THAT PLACES THE RECREATIONAL VEHICLE INDUSTRY WITHIN THE BOARD'S JURISDICTION (SENATE BILL 248, CHAPTERED OCTOBER 9, 2003) - POLICY AND PROCEDURE COMMITTEE**

Skip Daum, Executive Director, California Recreation Vehicle Dealers Association, requested that agenda items 15 and 16 be taken out of order.

Mr. Daum thanked the Board and staff for their assistance in implementing the legislation that added the recreational vehicle industry to the list of licensees within the Board's jurisdiction. Mr. Daum complemented the Board on its tenure, and record of fair rulings and interpretations. He expressed his appreciation for the personal touch and hands on involvement provided by the Board, its staff, and in particular Tom Novi, Executive Director. Mr. Novi was presented with a certificate of appreciation from the

California Recreation Vehicle Dealers Association. Mary Garcia, Manager, Occupational Licensing Branch, Department of Motor Vehicles, was also presented with a certificate of appreciation for her involvement with Mr. Novi in providing training sessions for recreational vehicle dealers. Mr. Novi thanked Mr. Daum for the recognition but pointed out that the success of the implementation was due largely to staff efforts, particularly those of Robin Parker, Senior Staff Counsel.

The members were provided with a memorandum from Tom Novi and Robin Parker concerning programmatic and regulatory changes in light of the legislation that places the recreational vehicle industry within the Board's jurisdiction. At the November 7, 2003, General meeting, Ms. Parker reported that the staff had compiled a list of the necessary changes, and had begun to implement many of those changes. Ms. Parker reported that all of the changes except those pertaining to the web site updates had been completed. The DMV personnel are in the process of incorporating those changes into the Board's web site.

Skip Daum and Mary Garcia were available to answer member questions.

16. **CONSIDERATION OF IMPACT OF RECENT LEGISLATION THAT PLACES THE RECREATIONAL VEHICLE INDUSTRY WITHIN THE BOARD'S JURISDICTION (SENATE BILL 248, CHAPTERED OCTOBER 9, 2003) AS IT RELATES TO THE BOARD CONSUMER MEDIATION SERVICES PROGRAM - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the impact of the RV legislation on the Board Consumer Mediation Services Program. Ms. Kindel reported that Senate Bill 248 requires that the staff recommend to a member of the public that he or she consult with the Department of Consumer Affairs when seeking a refund involving the sale or lease of, or a replacement of, a recreational vehicle. The staff proposed the Board's Consumer Mediation Services Program use the following guidelines when dealing with complaints from the public regarding RV's:

1. Staff will determine if the RV meets the "Lemon Law" presumption.
2. Staff will ask the consumer if they are seeking a refund or replacement.
3. Staff will determine if the manufacturer operates a state certified arbitration program.

If these three guidelines are met, the consumer will be directed to consult with the Department of Consumers Affairs, Arbitration Certification Program. Board staff under the Consumer Mediation Services Program would handle recreational vehicle complaints that did not meet the "Lemon Law" criteria.

Mr. Skobin requested that the Board take no action while the staff seeks input from the industry. He further requested that this matter be agendized for the April 22, 2004, General meeting.

7. **SEMI-ANNUAL UPDATE ON STAFF TRAINING PROGRAMS IMPLEMENTED FOR SUPPORT PERSONNEL, STAFF COUNSEL, AND ADMINISTRATIVE LAW JUDGES - ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel updating the staff training programs implemented for support personnel, staff counsel, and administrative law judges. Ms. Kindel reported that in compliance with the Governor's Executive Order, the amount of staff training has been reduced. Mr. Novi reported that there is low staff turnover and the skill set of the staff is high, so a reduction in training has not impacted the staff.

8. **CONSIDERATION OF EMPLOYEE RECOGNITION AWARD RECIPIENT AS RECOMMENDED BY THE BOARD DEVELOPMENT COMMITTEE**

At the July 18, 2000, meeting, the members adopted an Employee Recognition Award Program to award the staff for their accomplishments. The staff submitted employee nominations to the Board Development Committee, Tom Flesh, and the Committee ultimately recommended Heather Collins as the recipient. Ms. Collins is a Staff Services Analyst in the Mediation Program. She is being recognized for her excellent job performance in customer service, and her courteous handling of consumers who call with complaints. Ms. Collins has been recognized in the Board's newsletter, the *In-Site*, several times for helping consumers achieve a successful end to their complaints, especially in receiving refunds and buy-backs. Her highly organized and efficient manner in researching complex issues, and assisting in administrative matters are greatly appreciated by all. Ms. Collins has been commended for her outstanding ability to complete projects in a timely and accurate manner. Ms. Collins is highly motivated, and her positive attitude makes working with her a pleasure. Mr. Skobin moved to adopt the Committee's recommendation. Mr. Lizárraga seconded the motion. The motion carried unanimously.

9. **BOARD MEMBER EDUCATION CONCERNING CHANGES TO THE ADMINISTRATIVE PROCEDURE ACT, BAGLEY-KEENE OPEN MEETING ACT, POLITICAL REFORM ACT, AND PUBLIC RECORDS ACT - BOARD DEVELOPMENT COMMITTEE**

Annually the Board staff provides an update concerning any statutory changes to the laws that govern the Board's operations and its quasi-judicial functions. Howard Weinberg provided a brief update on the Administrative Procedure Act, Bagley-Keene Open Meeting Act, Political Reform Act, and Public Records Act. Mr. Weinberg indicated that there were no statutory changes that impacted the Board. Additional publications concerning these Acts would be forwarded to the members upon receipt.

10. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 2ND QUARTER OF FISCAL YEAR 2003-2004 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Linda Lighter concerning the Board financial condition report for the 2nd quarter of fiscal year 2003-2004. Miss Kindel reported that the Board had expended 40% of its appropriated budget through the second quarter of the fiscal year. In November 2000, the staff forecast projections concerning when the Board would reach its reduced surplus goal. Miss Kindel reported that the goal should be met in fiscal year 2006-2007.

11. **ANNUAL REVIEW OF THE GUIDELINES FOR ACCESS TO PUBLIC RECORDS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning the annual review of the Board Guidelines for Access to Public Records. Mr. Weinberg reported that there were no statutory changes and therefore there were no edits to the Board's Guidelines. Mr. Weinberg suggested that this report be made an exception report and agendaized as needed. Mr. Skobin concurred.

12. **CONSIDERATION OF THE REVISED NEW MOTOR VEHICLE BOARD DISPUTE RESOLUTION GUIDE FOR ADMINISTRATIVE LAW JUDGES AND OTHERS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a revised version of the Dispute Resolution Guide for Administrative Law Judges and Others. Mr. Weinberg reported that the revised version was reviewed by Ken Wilson, Administrative Law Judge. Judge Wilson originally drafted the Guide. Mr. Skobin moved to approve the revised version of the Dispute Resolution Guide for Administrative Law Judges and Others. Mr. Robles seconded the motion. The motion carried unanimously.

13. **ANNUAL REPORT CONCERNING BOARD ADOPTED POLICIES - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker concerning the annual review of Board adopted policies. Ms. Parker indicated that utilizing Cara Peralta to preside over Mandatory Settlement Conferences resulted in a reduction of the Board's Personal Services Budget by \$40,380 instead of \$99,000. The new policies that were approved in 2003 are as follows:

- (1) The Board revised the Parliamentary Procedures to reflect the changes in organizational structure;
- (2) Dealer members voluntarily recuse themselves in RV protests;
- (3) Cara Peralta will preside over Mandatory Settlement Conferences whenever possible to allow the Board to reduce its Personal Services Budget allocation;

- (4) The Hearing Officer series specification was changed to an Administrative Law Judge class;
- (5) The Board will exercise jurisdiction over protests filed by all-terrain vehicle dealers against ATV manufacturers even though the annual Board fee is not currently being collected;
- (6) The vision statement was amended to reflect the Board member education concerning industry matters which further improves its ability to equitably resolve industry disputes; and
- (7) The Board will incur the cost of the court reporter appearance fee for hearings on the merits and dispositive motions. For all other motions, discovery disputes, and pre-hearing conferences, the requesting party will incur the fee.

14. **CONSIDERATION OF 2004 REVISIONS TO THE INFORMATIONAL GUIDE FOR MANUFACTURERS AND DISTRIBUTORS WHICH OUTLINES THEIR OBLIGATIONS TO PROVIDE NOTICES, SCHEDULES, AND FORMULAS MANDATED BY THE CALIFORNIA VEHICLE CODE AND CIVIL CODE TO THE NEW MOTOR VEHICLE BOARD AND/OR IMPACTED DEALERS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum and revised Informational Guide for Manufacturers and Distributors. Ms. Parker reported that the Guide was revised to incorporate the recreational vehicle industry. The California Recreation Vehicle Dealers Association, and the Recreation Vehicle Industry Association previously reviewed the Guide and provided suggestions that were incorporated. With Committee concurrence, a draft of the Guide was sent to all recreational vehicle manufacturers and placed on the Board's web site with a disclaimer. Mr. Lizárraga moved to adopt the revised Guide. Mr. Wilson seconded the motion. The motion carried unanimously.

17. **DISCUSSION CONCERNING PENDING LEGISLATION - POLICY AND PROCEDURE COMMITTEE**

- a. Pending Legislation that impacts the Board.
 - (1) Assembly Bill 1968 (Assembly Member Dutra)
 - (2) Assembly Bill 2848 (Assembly Member Keene)
 - (3) Senate Bill 1711 (Senator Bowen)
- b. Pending Legislation of general interest.
 - (1) Assembly Bill 1839 (Assembly Member Montanez)
 - (2) Senate Bill 584 (Senator Alarcon)

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the pending legislation that impacts the Board and pending legislation of general interest. The summary analyzes the current law, the legislation, and the impact on the Board.

Mr. Novi indicated that the California Motor Car Dealers Association, California Recreation Vehicle Dealers Association, and California Motorcycle Dealers Association were all opposed to Senate Bill 1711 which would abolish the Board. Mr. Novi has received a number of calls from constituents that are concerned about the legislation and a number of letters in support of the Board's existence are being sent to Senator Bowen. Mr. Novi reiterated the Board's policy of not taking a position on pending legislation. Mr. Stevens indicated that he was planning to meet with Senator Bowen.

Mr. Novi also informed the members that the Board staff was in the process of completing a questionnaire from Senator Liz Figueroa, Chair, Joint Legislative Sunset Review Committee. The completed questionnaire will be forwarded to the Sunset Review Committee and the data may be considered in subsequent Committee hearings.

Mr. Lizárraga requested that the staff notify the members of upcoming committee hearings on Senate Bill 1711. Also, he would like to know the names of the committee members and their contact information.

18. **EXECUTIVE DIRECTOR'S REPORT**

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code Sections 3060 and 3062.
- g. Other.

Mr. Novi provided the members with a Report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status.

The members were also provided with a copy of the Executive Director's Report. Ms. Peralta reported that there were five new protests since the report was submitted. Mr. Stevens commented that the backlog of cases has improved dramatically. Ms. Peralta reported that of the 37 pending protests, ten (10) were settling, nine (9) were in the motion or discovery phase, seven (7) were set for mandatory settlement conference, and four (4) were set for merits hearings.

Mr. Weinberg reported on the status of the court cases and indicated that the writ petition in *Long Beach Honda* had been dismissed.

19. **2004 ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT - EXECUTIVE COMMITTEE**

Mr. Flesh moved to nominate Glenn Stevens as President. Mr. Wilson seconded the

motion. Mr. Robles moved to close the nominations, with Mr. Lizárraga seconding the motion. The motions carried unanimously.

Mr. Skobin moved to nominate David Wilson as Vice President. Mr. Flesh seconded the motion. Mr. Lizárraga moved to close the nominations, with Mr. Flesh seconding the motion. The motions carried unanimously.

20. **APPOINTMENT OF COMMITTEE MEMBERS TO THE ADMINISTRATION COMMITTEE, BOARD DEVELOPMENT COMMITTEE, FISCAL COMMITTEE, GOVERNMENT AND INDUSTRY AFFAIRS, AND POLICY AND PROCEDURE COMMITTEE, BY THE INCOMING BOARD PRESIDENT**

Mr. Stevens appointed the members to the committees as follows:

The Administration Committee

Chair: Robert Branzuela

Member: Alan Skobin

The Board Development Committee

Chair: Tom Flesh

Member: Haig Papaian

The Executive Committee

Chair: Glenn Stevens

Member: David Wilson

The Fiscal Committee

Chair: Andy Robles

Member: Sushil Sharma

The Government and Industry Affairs Committee

Chair: Tom Flesh (2-year term)

Member: Alan Skobin

The Policy and Procedure Committee

Chair: Alan Skobin

Member: David Lizárraga

Mr. Lizárraga indicated that Fabian Nunez, Speaker of the Assembly, requested that a follow-up to the minority ownership of dealerships topic at the past Roundtable be raised to see what progress has been made.

After a lengthy discussion, Mr. Novi indicated that he would ascertain whether the manufacturers attending the Industry Roundtable would be prepared to discuss the minority dealer topic. If not, then the Board could host a Special meeting to address this topic.

21. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 11:10 a.m.

Submitted by

TOM NOVI
Executive Director

APPROVED: _____
Glenn E. Stevens
President
New Motor Vehicle Board